IN THE HIGH COURT OF BOMBAY AT GOA
***

WRIT PETITION NO. 11 OF 1993

Comunidade of Chicalim,
by its Attorney (Procurador),
Shri J.J.S. Rodrigues, r/o
Chicalim, Goa. ...Petitioner.

Versus

1. Income Tax Officer,
Ward I, Margao, Goa,

2. Union of India (through
the Secretary to the
Government of India, Ministry
of Finance, New Delhi). ...Respondents.

Shri A. F. Diniz, advocate for the petitioner.

Shri S. R. Rivonkar, advocate for the respondents.

CORAM : A. M. KHANWILKAR &
P. V. HARDAS, JJ.

DATE : 19th November, 2003.

ORAL JUDGMENT (Per Khanwilkar, J.)

This Writ Petition under Article 226 of the Constitution of India in substance questions the Notices under Section 148 of the Income Tax Act, 1961, issued to the petitioner in respect of the Assessment Years 1983-1984, 1984-1985 and 1985-1986.

The only question that arises in this petition and has been asserted on affidavit by the petitioner is that the authorities have not furnished reasons recorded for issuance of the impugned Notices dated 20th August, 1991, nor provided inspection of the records, materials, documents, etc. to the petitioner. Although this petition has been filed as far back as in 1993, till today, no reply has been filed

controverting the aforesaid assertion made in the Writ Petition. Indeed Shri Rivonkar, learned counsel for the respondents, prayed for time to produce relevant records and to file reply affidavit controverting the above position. It is not possible for us to countenance such a request at this distance of time. As mentioned earlier, the assertions made in the Writ Petition having remained uncontroverted, it necessarily follows that the impugned Notices cannot be sustained in law for having failed to furnish reasons recorded by the authority to the petitioner.

2. In the circumstances, this Writ Petition succeeds in terms of prayer Clauses (a) and (b). It is however made clear that it will be open to the authorities to proceed in the matter after following due procedure as may be permitted by law. No costs.

A. M. KHANWILKAR, J.

P. V. HARDAS, J.

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